

**RESPONSES TO CHEMICAL LIME COMPANY (CLC) COMMENTS (dated April 8,
2002) TO PROPOSED PERMIT # 1000044
FOR THE DOUGLAS LIME PLANT**

1. General Comment (Identification of Federally Enforceable and State Enforceable Requirements)

Title V permits are required to identify any requirement which is not federally enforceable. The proposed permit contains various requirements based on the PM₁₀ State Implementation Plan for the Paul Spur Group I Area (PM₁₀ SIP) dated July 1990 and prepared by the Office of Air Quality, Arizona Department of Environmental Quality. The requirements of the PM₁₀ SIP have not been approved by EPA and consequently are state enforceable, but not federally enforceable. Chemical Lime Company (CLC) requests that all state enforceable conditions be identified in the permit.

ADEQ response: Sufficient language already exists in the proposed permit. Please see paragraph 3 of the proposed permit Abstract.

2. Attachment "B", Section III.A.2.g - Emission Limits/Standards for Open Areas, Roadways/Streets, Material Handling, Storage Piles

This permit condition cites A.A.C. R18-2-804(B) as requiring the use of "wetting agents or dust suppressants before the cleaning of any site, roadway, or alley". A.A.C. R18-2-804(B) requires that reasonable precautions be taken to prevent particulate matter from becoming airborne, and identifies (but does not limit) application of dust suppressants as a reasonable precaution. A.A.C. R18-2-804.B, however does not mandate that wetting agents or dust suppressants be applied prior to the cleaning of any site, roadway, or alley. Consequently CLC requests that this permit condition be modified to conform to the requirements of A.A.C. R18-2-804(b).

ADEQ response: Wetting agents and dust suppressants have been identified as reasonable precautions. As stated in Paragraph III(A)(2), Permittee may add other reasonable precautions to their menu of control options by following the appropriate permit revision mechanism.

3. Attachment "B", Sections V.B.3.a and VI.B.3.a - Span of the Kilns 4 and 5 Continuous Opacity Monitoring Systems (COMS)

The span requirements of A.A.C. R18-2-720(F) for the COMS can be interpreted in various ways. CLC's interpretation is that A.A.C. R18-2-720(F) requires that the span (or the highest opacity) that the COMS can measure be set at 70%, whereupon the COMS can subsequently measure opacities from 0-70%, but not higher values. If ADEQ's interpretation differs, CLC requests that this be identified in these permit conditions in order to comply with a common interpretation of the span requirements for the COMS.

ADEQ response: The permit reproduces the applicable requirement as it appears in the rule books.

CLC is advised to work with ADEQ's compliance staff to come to an agreement on the interpretation of the rule.

4. Attachment "B", Sections V.B.3.d and VI.B.3.d - Use of Opacity to monitor Kiln 4 and 5 Particulate Emissions

*CLC objects to the provisions of these permit conditions on the grounds that they are arbitrary, capricious and illegal. Kiln 4 and Kiln 5 are subject to the particulate emission standard of A.A.C. R18-2-720 which is measured using EPA Method 5 and not by a surrogate opacity limit. The proposed provision would establish a substantive new requirement, which neither Title V nor Arizona law authorizes. See 40 CFR. § 70.1(b) ("Title V does not impose substantive new requirements.") As stated by the federal Court of Appeals in Appalachian Power Company v. Environmental Protection Agency, 208 F.3d 1015, 1027 (D.C. Cir. .2000): "Test methods and the frequency of testing for compliance with emission limitations are surely substantive' requirements We have recognized before that changing the method of measuring compliance with an emission limitation can affect the stringency of the limitation itself." The proposed permit already contains a periodic monitoring requirement for measuring compliance with the particulate emission standard. See Sub-Paragraphs V.B.5.b and VI.B.5.b (requiring an annual performance test to measure the particulate matter emissions from the Kiln 4 and Kiln 5 stack). This requirement is adequate to satisfy the requirement for periodic monitoring. As stated by the Appalachian Power court. "If periodic' has its usual meaning, this signifies that any State or federal standard requiring testing from time to time - - that is **yearly**, monthly, weekly, daily, hourly - - would be satisfactory." 208 F.3d at 1024. Based on the foregoing, these sub-paragraphs should be deleted.*

ADEQ response: An annual performance test will provide reliable data representative of compliance with the emission standard for the time period of the performance test. Performance tests for particulate matter typically last only for three hours. Sub-Paragraphs V(B)(3)(d) and VI(B)(3)(d) provide monitoring data for the rest of the kiln operating period. The authority provided to ADEQ by AAC R18-2-306(A)(3)(c) has been used as the basis to derive these conditions for periodic monitoring of control device performance. The permit conditions have not been modified.

5. Attachment "B", Section IX.A.4.g and IX.B.4.e, and IX.C.3.d - Recertification of COMs

The COMs currently installed on the Kiln 4 and Kiln 5 stacks comply with the certification requirements that were in effect when they were installed and certified, but cannot comply with current certification requirements, as the current requirements of Performance Certification 1 (PS-1) of 40 CFR 60 Appendix B have been revised. CLC requests that these permit conditions be revised to require that the performance certification complies with the July 1, 1991 PS-1 requirements for Kiln 4 and the July 1, 1999 PS-1 requirements for Kiln 5. These PS-1 requirements correspond to those that applied when the current CLC COMs were certified.

ADEQ response: Discussions with CLC staff provided the following background for this comment:

A version of PS-1 promulgated in August 2000 applies to COMs that are either installed,

relocated, or significantly re-furnished after August 2000. The term “relocation” has the potential to be interpreted in a manner that may require CLC to replace COMs. During any of the Alternate Operating Scenarios, if Kilns 4 and/or 5 are shutdown, the COMs may be removed from the stacks and placed in storage to protect them from mechanical damage due to the action of dust, wind, and lightning. Before the kilns startup again, the COMs will be placed back on the stack. CLC staff requested a clarification that such an action would not constitute a “relocation”. If such an action is viewed as a “relocation”, CLC would have to re-certify the COMs in accordance with the new PS-1. The existing COMs were first certified in accordance with 1991 and 1999 versions of PS-1. If CLC were required to have COMs that are compliant with the new PS-1, CLC would likely have to purchase new COMs. Therefore, CLC requested a clarification of the re-certification requirement.

ADEQ staff contacted the EPA Emission Measurement Center (EMC) to request a clarification of the definition for “relocation”. According to EMC staff, the scenario as described in the preceding paragraph, would not constitute a “relocation” under the new PS-1. EMC staff also indicated that a further revision to PS-1 in the immediate future may have an impact on monitors in current use. The permit conditions have not been changed because it is not possible to anticipate any other actions taken in the future, which may constitute a “relocation”. To the extent that moving the COMs is in accordance with the background for this comment, this response can be used for future reference. For other situations, CLC is advised to contact ADEQ and/or EMC to ascertain the version of PS-1 that should be used.